

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTONIO FRAUSTO,

Defendant.

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Case No. 8:09CR3

ORDER

This case is before the court on the defendant's Motion for Leave to File Out of Time (#80) and the government's response in opposition thereto (#86). The motion is denied. The date for the filing of pretrial motions was previously set by Order of this court (#42) as February 27, 2009, and the defendant's motion to file for a Bill of Particulars fails to set out a factual basis for the requested relief.

**IT IS ORDERED:**

1. The defendant's Motion for Leave to File Out of Time (#80) is denied.
2. Defendant's Motion for Bill of Particulars (#84) and the brief in support of the Motion for Bill of Particulars (#82) are ordered stricken.

Pursuant to NECrimR 57.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) business days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order **is clearly erroneous or contrary to law**. The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal. See NECrimR 57.2.

Dated this 7<sup>th</sup> day of May 2009.

BY THE COURT:

S/ F. A. Gossett  
United States Magistrate Judge